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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CYNTHIA S. GILLETTE, individually and
derivatively on behalf of nominal defendant
BLIMPIE OF CALIFORNIA, INC.,

Plaintiff,

07 Civ. 4697 (CLB)

v.

JEFFREY ENDERVELT, BELLE
ENDERVELT and DORA RICCI,

NOTICE OF MOTION

Defendants,

and

BLIMPIE OF CALIFORNIA, INC.,

Nominal Defendant.

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PLEASE TAKE NOTICE that upon the declaration of Kevin Fritz, dated December 26, 2007, the exhibits attached thereto, the accompanying memorandum of law in support of the motion, and the pleadings herein, plaintiff Cynthia S. Gillette (“Gillette”), individually and derivatively on behalf of nominal defendant Blimpie of California, Inc. (“BOC”) (collectively, “Plaintiff”), by her attorneys, Storch Amini & Munves PC, will move this Court, before the Honorable Charles L. Brieant, United States District Judge, on January 25, 2008 at 10:00 a.m. for an order pursuant to Rule 17(c) of the Federal Rules of Civil Procedure appointing a guardian ad litem to represent defendant Belle Endervelt in this action.

Dated: New York, New York
December 26, 2007

By: /s/ Kevin Fritz
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